UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/SR.1627
30 October 1997

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

Sixty-first session

SUMMARY RECORD OF THE 1627th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 27 October 1997, at 3 p.m.

Chairperson: Ms. CHANET

later: Mr. BHAGWATI

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Fourth periodic report of Iraq (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.97-18827 (E)

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Fourth periodic report of Iraq (continued)(CCPR/C/103/Add.2; CCPR/C/61/Q/IRQ/4)

1. At the invitation of the Chairperson, the members of the delegation of Iraq took places at the Committee table.

2. The CHAIRPERSON invited the Iraqi delegation to answer the questions which had been put to it.

3. Mr. MAHMOOD (Iraq), noting that members of the Committee had, in their questions and comments, referred to the interdependence between the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, as evidenced in particular by the identical wording of article 1 of both instruments, stressed the binding nature of the provisions of both Covenants upon all States parties. While entirely agreeing that the interdependence between the two Covenants did not exempt a country which considered itself to be the victim of a violation of one of the Covenants from implementing the provisions of the other, he felt bound to stress once again the sufferings of the Iraqi people, who were engaged in a daily struggle for survival in the face of hunger and lack of basic necessities, including medicines. The impact of the economic blockade on the Iraqi people's right to life and survival was described in the report and in numerous memoranda of the Iraqi Government and could be borne out by many NGOs. The impact of the sanctions on Iraq's infrastructure had been clearly noted in a position paper by the former Secretary-General of the United Nations, and its adverse effects on the implementation of Iraq's structural reform policy were referred to in official United Nations studies and had been noted by the Committee on the Elimination of Racial Discrimination.

4. Replying to questions relating to the legal regime applicable in Iraq, he said that the Constitution and laws of his country, and in particular the Code of Criminal Procedure, specified that the judiciary was independent and subject only to the provisions of the law. The judiciary was composed of courts of first instance, courts of appeal and the court of cassation. Under Iraq's legal system, cassation was a common practice; legal remedies differed depending on the type of court concerned, but all court rulings could be subject to appeal. Judges were appointed by presidential decree upon confirmation of the candidate's conformity with certain requirements. A judge must be in possession of a law degree, have at least 3 years' experience of service in a government body in the legal field and be at least 30 years old when appointed to the bench. Dismissal of judges and all other matters relating to members of the judiciary could only be addressed by the Judicial Council, which was composed exclusively of judges. The official retirement age for judges was 63 years, but it could sometimes be extended in the light of a particular individual's great experience. The executive had no power over the judiciary. Military courts were specialized bodies concerned with

crimes involving military matters and committed on military premises. Any civilian involved in a military matter was subje t to civil jurisdiction. The members of military courts were jurists.

5. Special courts, as already explained, were tribunals with a very restricted jurisdiction which Iraq had been compelled to set up pursuant to a decision of the Revolution Command Council. They dealt with matters of exceptional gravity affecting the welfare of society, such as organized crime. In reply to a question as to whether the special courts were subordinate to the Ministry of the Interior, he said that that was not the case. Special court judges were general procurators. He wished to assure the Committee that once the situation in Iraq had returned to normal, the special courts would be abolished. Without seeking to defend their existence, he pointed out that similar courts were set up by a great many countries that found themselves in a difficult situation.

6. Turning to questions relating to the death penalty, he said that the exceptional situation in Iraq had called for the introduction of severe penalties as a deterrent and in order to prevent an upsurge of serious crime. It was true that some crimes now punishable by the death penalty had not been so in the past, and that the death penalty was now applied more frequently. The legislative authority responsible for its application was the Revolution Command Council. He wished to emphasize the ad hoc and selective nature of the new laws, as well as the possibility of their repeal once the situation returned to normal. The previously existing law had not been amended; the changes were the result of temporary decisions which would be withdrawn once the people of Iraq were able to live in peace.

7. Mr. El Shafei had raised the question of the legalization of the death penalty for offences which did not appear to warrant such severe punishment. Personally, as a jurist, he was inclined to agree. However, in the matter specifically referred to, the seriousness of crimes detrimental to Iraq's cultural heritage had grown to such an extent as to make it necessary to increase the penalty. Thus, the world's most ancient copy of the Old Testament had been stolen from a church in northern Iraq, while other ancient texts had been stolen and cut with a laser at the Iraqi border. Under normal circumstances, the penalty for such crimes would be imprisonment for a number of years or for life, but the death penalty could now be imposed under the Cultural Heritage Act, recently adopted in view of the seriousness of the situation. As to the suggestion that offences which threatened the security of the State also carried the death penalty, he was not aware of the existence of any legislation to that effect. The death penalty could only be applied under the Code of Criminal Procedure of 1971 and was accompanied by many safeguards. All crimes punishable by death or life imprisonment were automatically referred to the Court of Cassation. The accused was free to choose his defence counsel, and statements made during the hearings were placed in the public records.

8. Explaining why crimes subject to the death penalty included the stealing of drugs by members of the medical profession, he said that the current shortage of medical supplies in Iraq often made it necessary for doctors to perform minor surgical operations, and sometimes even major ones, without an anaesthetic. Patients had been known to die after an operation because the

equipment was out of date, proper sterile conditions could not be ensured and antibiotics were in short supply. Under such circumstances, members would surely not disagree that persons who stole medical supplies deserved to be severely punished. A State could not discharge its responsibilities towards the people unless it did everything in its power to prevent unnecessary deaths. It should not be forgotten that at least a million Iraqis had already died as a result of the sanctions.

9. With regard to the penalty of the amputation of the hand, described by members as cruel and inhuman, he referred to his previous remarks about the death penalty and repeated that the adoption of harsher legal measures was provisional and reflected an exceptional situation. Under the law, decisions to apply the penalty of amputation of the hand must be made public and their execution was always subject to a second opinion. He sincerely hoped that the measure would be abolished when the situation returned to normal. As to the alleged showing of "horrific" pictures of an amputation on Iraqi television, he did not know how to refute the allegation otherwise than by saying that it was simply not true.

10. Replying to questions on the subject of involuntary disappearances, he said that the Ministry of Foreign Affairs was perfectly ready to cooperate with the Working Group set up by the United Nations to look into such matters. It should be borne in mind, however, that the lists of persons registered as having disappeared included the names of many of the almost 2 million Iraqis who had left the country in the wake of the conflict of March 1991 and settled abroad. To list such persons under the heading of involuntary disappearances was surely somewhat unethical.

11. Reference had also been made to alleged killings and arrests of civilians in the Province of Arbil in September 1996. Yet how often had the Turkish army invaded northern Iraq and wreaked destruction? It would seem that certain people were not against such military interventions which threatened the sovereignty of a State Member of the United Nations and caused suffering to its citizens. Allegations of massacres of civilians perpetrated by the Iraqi army in the province had been categorically denied by the head of the Kurdish Democratic Party and other Kurdish representatives in televised interviews shown all over the world. To question Iraq's responsibilities with regard to the northern provinces was neither fair nor just. How could Iraq exercise responsibility for regions which had been removed from its sovereignty and over which it no longer exercised any power? In that connection, he referred to the Amnesty International report, which clearly referred to fighting between Kurdish factions in northern Iraq.

12. One member had said that the deterioration in the day-to-day life of the Iraqi population had been caused by the Government's suspension of oil exports. The Iraqi Government had declared on many occasions that it would never suspend its oil exports. In accordance with the first stage of implementation of the Memorandum of Understanding, Iraq had requested that officially-signed purchase contracts should be carried out so as to enable it to buy the food it required and then proceed to the second stage, that of selling its oil in exchange for food. Unfortunately, however, contracts for the supply of medicines had been very considerably delayed. As defenders of international humanitarian law, members of the Committee must surely realize

the consequences of depriving a country of the food and medicines it so urgently required. The food products in question were flour, rice, tea, sugar, cooking oil and milk for children between the ages of one and five. As to questions which had been asked about the equitable distribution of products, he stressed the inadequacy of the supplies delivered and said that he failed to understand the purport of the questions.

13. With regard to the Special Rapporteur on the situation of human rights in Iraq, who was the source of much of the information on Iraq received by the Committee, he referred to the undertaking by the Iraqi Government, given in connection with the Committee's consideration of the third periodic report in 1991 (CCPR/C/6/Add.6), to cooperate with the Special Rapporteur. The Iraqi authorities had provided him with all necessary facilities for the fulfilment of his mandate during his first visit to Iraq in February 1992. Their cooperation had been based on the guidelines laid down in General Assembly resolution 45/163, which had subsequently been reaffirmed by resolution 51/105, concerning the strengthening of United Nations action in the field of human rights and the importance of non-selectivity, impartiality and objectivity. Resolution 51/105 had stressed the importance of the objectivity, independence and discretion of special rapporteurs and the need for full respect for the political, economic and social realities in individual countries. It had also reiterated the right of all peoples freely to determine, without external interference, their political status. But the Special Rapporteur had failed to take account of the circumstances in Iraq following a destructive war and the imposition of economic sanctions. His reports were incompatible with his mandate and had also failed to respect the people's right to self-determination and to choose their political system freely. The obvious political motivation of the reports was a clear violation of international law.

14. Paragraph 155 of his first report (E/CN.4/1992/31) stated that, in view of the legal and political order that characterized the Government of Iraq, the Special Rapporteur concluded that the existing order precluded full respect for human rights obligations. How could such a statement contribute to enhancement of the political, legal and constitutional situation and to the strengthening of human rights in Iraq? In paragraph 156, he made a recommendation that was unparalleled in the history of special rapporteurs, namely the sending to Iraq of a team of human rights monitors who would remain there until the human rights situation had drastically improved. In paragraph 7 of his most recent report (E/CN.4/1997/57), the Special Rapporteur had attributed systematic violations of the civil and political rights of the Iraqi people throughout the country to the fact that the politico-legal system in the country had remained unchanged. He described Iraq as a dictatorial, totalitarian State which allowed no political dissent and asserted that the political regime was in violation of Iraq's obligations under article 21 of the Universal Declaration of Human Rights to ensure that the genuine will of the people was the basis of authority of government. All authority, he claimed, was held in the hands of the President who, through all-powerful offices of government and the Arab Baath Socialist Party which he headed, conducted life in Iraq as he wished. In reaching those conclusions, the Special Rapporteur relied on sources of information that were neither objective nor impartial and on unconfirmed allegations. Had he genuinely endeavoured to ascertain the truth and to point out shortcomings in the

existing legislation and human rights situation, the Iraqi Government would have been grateful, but his conduct to date was defeating the purpose of his mandate.

15. Some Committee members had justifiably asked the delegation for statistics. Unfortunately, the list of issues had only arrived in Iraq on the day of the delegation's departure and there had been no time to obtain the relevant figures. He would take the necessary steps to have them forwarded to the Committee in due course.

16. Mr. ZAKHIA said he deeply regretted that the Iraqi people were being punished by sanctions imposed to put pressure on the political authorities. He was aware of the existence of double standards but it was not for the Committee to adopt political positions. It was concerned only with legal matters and the implementation by State parties of the provisions of the Covenant. Whereas economic and social rights in Iraq could be undermined by sanctions, the enjoyment of civil and political rights could be threatened only by the authorities themselves, especially where the power exercised was personal and absolute. Two categories of internal machinery were required for effective protection of human rights, one operated by legal or official bodies and the other by NGOs and civil society. Both categories must be free, independent and effective. He wished to know whether such mechanisms existed in Iraq and how they functioned.

17. Ms. EVATT said she did not feel that the delegation had responded adequately to the questions asked in good faith by the Committee. She pointed out that the Amnesty International report quoted by the delegation had also been the source of the information regarding amputation.

18. Mr. MAHMOOD (Iraq) said that the interrelationship between civil and political rights and economic, social and cultural rights in Iraq was a legal one and had nothing to do with politics. Moreover, the interrelationship was reflected in article 1, which was common to the two Covenants. It was self-evident that, in a country where people were fighting for survival and children were dying every day as a result of violations of international humanitarian law, the issues at stake were purely legal and unrelated to the political situation.

19. Turning to question 10 of the list of issues (CCPR/C/61/Q/IRQ/4), he said that Iraq had been a party to the Convention on the Elimination of All Forms of Discrimination against Women since 1986. He referred the Committee for further details to Iraq's first periodic report to the relevant Committee (CEDAW/C/5/Add.1/Rev.1) and its third periodic report to the Committee on Economic, Social and Cultural Rights (E/1994/104/Add.9). His Government had established a National Committee for the Advancement of Women headed by the Minister of Labour and Social Affairs and comprising representatives of the Ministries of Foreign Affairs, Justice, Health, Education, and Higher Education and Scientific Research, and of NGOs, in particular the General Federation of Iraqi Women. The Committee's mandate was to monitor implementation of the Platform for Action adopted at the Fourth World Conference on Women in Beijing in 1995. The Constitution and other legislation reaffirmed the full equality of men and women in terms of rights and freedoms. Women enjoyed separate legal personality and their status was

independent of that of the men to whom they were married or related. They also enjoyed all other personal rights, in particular the right to choose a husband and to file for divorce. Their political rights had enabled them to participate in public life as voters and candidates for election and to be appointed to the National Assembly and local People's Councils. Women held 16 seats in the National Assembly and the Chairperson of the Assembly Committee on the Environment was a woman. Women in Iraq held high public office, serving as judges and directors-general of public bodies, and there were many women doctors, engineers, architects, etc. The General Federation of Iraqi Women was an NGO for the defence and promotion of women's rights in all areas of public and private life in Iraq.

20. With regard to question 11, the exceptional circumstances prevailing in Iraq had created a de facto state of emergency viewed in terms of article 4 of the Covenant. However, the Government had not officially declared a state of emergency because it was determined to apply existing laws and to refrain from suspending them for as long as possible. It had taken some exceptional measures permitted to States parties under article 4.

21. Turning to question 12, he said that pre-trial detention was viewed as provisional custody and the maximum periods of such custody were laid down in article 109 of the Code of Criminal Procedure. During those periods, detainees enjoyed all the rights of innocent persons except, of course, freedom of movement. The law provided for release on bail in the form of a financial guarantee or other surety. In some cases, a suspect's social status was sufficient to warrant release. The final decision lay with the magistrate unless a higher court invalidated his ruling. Magistrates usually permitted release on bail unless to do so might undermine the investigation or where there was a risk of absconding. Bail was not permitted, however, in the case of serious offences punishable by the death sentence. On the other hand, pre-trial detention was not ordered in the case of misdemeanours.

22. Under the Code of Criminal Procedure, an accused person must be brought before a judge within 24 hours. All detainees were presumed to be innocent until proved guilty and had the right to medical attention by prison doctors. Inspections were conducted in detention centres to ensure that conditions complied with health standards. Accused persons were completely free to choose their own lawyer and to communicate with him save where the examining magistrate felt it was necessary to prevent such contact for a limited number of days in the interests of the investigation and to prevent distortion of evidence.

23. In response to question 13 concerning the alleged retroactivity of certain laws, he said that the penalty prescribed under Decree No. 109 was designed to differentiate between criminals whose hands had been amputated and disabled persons who had received their wounds defending their country. It was applied in the case of offences of theft with particularly aggravating circumstances such as armed assault leading to loss of life. In practice, the Decree had rarely been enforced. Decree No. 115 was not precisely retroactive. Certain crimes, known as continuing crimes, required time for the relevant legislation to be applied. Thus, if somebody were to drive a vehicle without a licence in 1991, for example, and to be arrested for that offence in 1992, he would be liable to a penalty under the legislation in

effect at the time of the arrest rather than the time of the offence. Since the offence was in a sense ongoing, the penalty could not be regarded as retroactive.

24. Question 14, on freedom of movement, requested information on legal provisions restricting Iraqi citizens' right to leave the country, on who was eligible to hold a passport and on the administrative costs that might be incurred. The Iraqi Constitution and the laws in force, together with the legislation on passports, provided for the right to travel of all citizens. However, at a certain time during the war between Iraq and Iran, the right to travel had been suspended. It was now again permitted and any Iraqi citizen could obtain a passport for travel abroad and could, if he wished, reside in any country. The cost of obtaining a passport (400,000 dinars) might seem high but the embargo had caused rapid monetary inflation in Iraq and 400,000 dinars was worth only US$ 250. Inflation had led to a tenfold increase in salaries but civil servants, for example, whose salaries had been multiplied by 10, were still unable to meet their basic needs because their purchasing power was only 25 per cent of what it had been previously. He hoped that the situation currently affecting Iraq would soon be resolved and its citizens able to travel abroad again in complete safety. Many Iraqi citizens worked in other countries, especially Arab countries, and returned to Iraq to visit their families.

25. Question 15, concerning the important topic of freedom of expression, referred to Decree No. 840 of 1986, which it described as prescribing penalties ranging from imprisonment to death for anyone who criticized the President of the Republic. He noted that Decree No. 840 was among those legislative and administrative rules that were regarded as provisional. A committee had been set up to review such provisional legislation and some legal instruments had already been amended. For example, as soon as peace and security had been restored after the war between Iraq and Iran, a number of legal instruments had been revised. The Revolutionary Tribunal had been abolished at the end of the war with Iran and the restrictions on travel withdrawn. Decree No. 840 constituted an adjunct to article 225 of the Penal Code. The first paragraph of that article prescribed life imprisonment for any person who insulted the President. The question used the word "criticizing", but the Committee should be aware of the distinction between criticism and insult. For the penalty to apply, there must have been an insult, uttered in the circumstances set forth in the Penal Code. The insult must have occurred in a public place or in the media, whether a newspaper, a broadcast or film, or in a written publication. Thus, the crime referred to in the Decree was that of publicly insulting the President.

26. The application of the death penalty, prescribed in the second paragraph, would apply only to an insult uttered with a view to inciting armed conflict or clashes between the different communities within the country. In itself, the crime was not sufficient for the imposition of the death penalty: it must have been aimed at inciting armed conflict or revolt. The crime was not one of lese-majeste; rather it was a crime against the security of the State, the President serving as the symbol of that security. The moral principle reflected in article 225 appeared elsewhere in the Code. For example, a penalty was imposed on anyone who harmed the President of a foreign republic or the head of an international organization.

27. Regarding the new press law also referred to in the question, he noted that several new periodicals and newspapers, including the human rights review mentioned in his opening remarks, had commenced publication since the submission of the third periodic report. Article 15 of the 1991 law on political parties provided that, once a political party had been formed, it had the right to publish its own newspaper or periodical. The right to publish newspapers and periodicals was thus guaranteed by law.

28. In response to question 16 on the rights of the child, he noted that Iraq had acceded to the Convention on the Rights of the Child in 1994 and had already submitted an initial report to the relevant Committee. National legislation, including the law on minors and the Labour Code, protected children from all forms of exploitation and abuse. Unfortunately, because of the economic embargo and its impact on family life and economic conditions in Iraq, many families had been forced to allow children to drop out of school and work, despite the fact that the Compulsory Education Act obliged families to send their children to school and to ensure that they completed the primary and secondary cycles of free education. Any head of a family who prevented a child from attending school could be prosecuted. Under the economic embargo, in a country that had once been known for its wealth, children were being obliged to work instead of going to school. He had already remarked that the "food for oil" agreement did not provide for the basic needs of all individuals. It was not possible to give any priority to protecting the rights of children in implementing that agreement, save that the allocation of milk to nursing infants had been extended to the age of 12 months. Thus, at the dawn of the twenty-first century a child in Iraq could be assured of milk up to the age of one year but not beyond. Sterilized water, insecticides, fuel for electric generators and school supplies were all needs not covered by the agreement. As a father, he had been forced to pay an enormous sum for an exercise book for his child to write in, although Iraq was a rich country. It was not possible to import pencils because the lead in them, it was alleged, could be used to manufacture shells that might be fired across the border. What would the children of Iraq make one day of international law and a world society that denied them even milk?

29. In response to question 17, on the National Human Rights Commission and other human rights bodies in Iraq, he said that the Commission was answerable to parliament's Human Rights Committee. A Human Rights Directorate attached to the Ministry for Foreign Affairs also came under the parliamentary committee. NGOs included the Human Rights Association, the Association for the Protection of Children, the Lawyers' Union and the Bar Association. All were independent bodies able to monitor human rights issues and give advice to the government bodies responsible for preparing reports on the implementation of treaties in the field of human rights. Other agencies produced newspapers, reports and studies on human rights.

30. Mr. Bhagwati took the Chair.

31. The CHAIRPERSON invited the members of the Committee to comment on the delegation's responses to the questions in the list of issues.

32. Mr. YALDEN welcomed the Iraqi delegation and thanked it for its replies to the issues raised by the Committee. Much of what had been said by the

delegation, however, concerned international politics. He agreed that international policy caused problems for Iraq, some of them grave, and associated himself with the references to the unfortunate consequences of those problems for children in particular. He nevertheless appealed to the delegation to accept that not everything relating to human rights in Iraq could be explained away in that fashion. For example, he could find no economic or political justification for Iraq's violations of article 7 of the Covenant, which was not open to derogation. He also associated himself with the comments of members of the Committee regarding many other apparent violations of and inconsistencies with the provisions of the Covenant.

33. The important question of equality between men and women and of discrimination against women was dealt with very briefly in the report, in the form of a reference to an initial report to the Committee on the Elimination of Discrimination against Women. Since that report was four years old, he did not think it could be regarded as providing a satisfactory account of the current situation of women in Iraq. The further details provided in the course of the meeting had included a cursory reference to the appointment of a woman judge and a woman member of parliament, but nothing had been said about the overall situation of women in the workforce. He had been glad to hear that there was complete equality between men and women in Iraq: it must be the only country in the world where that existed. There had been references to the General Federation of Iraqi Women and to the existence of a Committee on Women's Rights, both of which seemed to have extensive responsibilities. However, there had been no indication whatever of what had actually been achieved in the way of eliminating discrimination against women.

34. The question of mechanisms for monitoring human rights, to which Mr. Zakhia had referred, was dealt with at some length in paragraphs 14 to 16 of the report. Again, the Committee had been presented with what was essentially a list of organizations. Given what appeared to be a considerable number of inconsistencies between Iraqi law and practice and the provisions of the Covenant, what the Committee would have liked to know was what those bodies had actually achieved in the area of protection and promotion of human rights, especially in dealing with complaints by Iraqi citizens of alleged violations of those rights. The role of the Iraqi judiciary in that respect was referred to in paragraph 16 of the report, and examples of judgements were said to be annexed to it and available for consultation. Since the annexes were in Arabic, he would be grateful if the delegation could expand on the report regarding the protection afforded by the courts to the rights guaranteed under the Covenant.

35. Ms. Chanet resumed the Chair.

36. Mr. LALLAH welcomed the Iraqi delegation. He had some further questions he would like to ask about freedom of expression. It was his belief, and that of the Committee, that freedom of expression played a central role in the enjoyment of civil and political rights. The Committee's general comment on articles 19 and 25 made its position clear in that respect. It was also regarded as an essential instrument in the exercise of freedom of association and other rights. He was not clear, after hearing the responses of the delegation to the Committee's questions or reading the Constitution of Iraq, whether political dissent, or the advocacy of political change, was a lawful

exercise. If the notion of that kind of dissidence was in fact accepted, how did it manifest itself in Iraq without attracting the sanction of the law? He was also anxious to know in what way the legal system and the executive power managed that concept in practice.

37. The representative of Iraq had spoken at length of the reasons why the Government had refused to allow the Special Rapporteur of the Commission on Human Rights to visit the country. The Committee had, of course, no mandate under the Covenant to recommend that the Government should do so, but given the explanation offered, the matter was of interest to it. The statement by the delegation that the Government was prepared to alter legislation that was not in conformity with the Covenant seemed constructive. However, if, as was claimed, the Special Rapporteur was not familiar with the situation on the ground in Iraq, had no understanding of its legal system and relied wholly on outside information, there would seem to be every reason to allow him into the country. The benefit to the Committee would have been the provision of concrete information of the kind that was lacking in the report. He urged Iraq to review its attitude to the Special Rapporteur so that Iraq itself, the Committee and the Commission on Human Rights could all benefit from the Rapporteur's conclusions.

38. Ms. EVATT said that the Iraqi Constitution provided for freedom of expression within the limits of the law. She was, therefore, concerned to know what the law provided. Although, under the Covenant, the exercise of the right to freedom of expression could be subject to certain restrictions, those restrictions must be justified. It was of great concern, therefore, that the fourth periodic report said nothing about legal or other restrictions on freedom of expression and the way in which they operated. It was her understanding that the press in Iraq was under State control, that the Government owned both national television stations, both radio stations and the main newspaper, and that all journalists were civil servants in the Government's employ. Any private media were strictly controlled and all publications must be specifically authorized. The information that the Committee needed in order to form its concluding observations was not provided. Were there any broadcast or print media owned and managed independently of government control?

39. Mr. EL SHAFEI, referring to article 12 on liberty of movement, noted that according to a decree adopted by the Revolution Command Council on 14 December 1982, individuals were not entitled to possess property in Baghdad unless they resided within the city limits. The Government had justified that decision by saying that it was intended to prevent rural exodus. He asked whether the decision was still in force.

40. The Press Act (No. 206) of 1986 authorized the publication of periodicals but imposed restrictions on their editors. It provided that prior authorization was necessary for the publication of periodicals in several fields and indicated that the foreign press was subject to censorship. Was that legislation still in force?

41. Mr. ANDO associated himself with Mr. El Shafei's question about the Press Act. Following up on Ms. Evatt's question about the media, he asked whether foreign television broadcasts, such as those by CNN, were accessible

to Iraqi citizens. Returning to the issue of human rights monitoring mechanisms raised by Mr. Yalden, and referring to paragraph 15 of the report, which described the functions of the Human Rights Directorate, he asked for information on any proposals put forward by that body in the exercise of its functions.

42. Ms. GAITAN DE POMBO agreed with the representative of Iraq about the deplorable situation in that country, particularly for the most vulnerable population groups, such as children, owing to the state of civil war and external difficulties. It was essential that additional efforts were made so that humanitarian assistance under the "food for oil" agreement could be delivered as rapidly as possible to those in need. Though the delegation's statement that economic, social and cultural rights could not be divorced from political and civil rights was quite true, economic problems could not be used to justify the infringement of civil or political rights under any circumstances.

43. She endorsed the comments of previous speakers about the implementation of articles 18 and 19 of the Covenant. The Committee would very much like to know more about the treatment of academics, intellectuals, teachers and students. Although many had had to leave the country owing to the current difficulties, others, according to NGOs and the Special Rapporteur, had been forced to leave for political reasons, on account of their religious faith or because of excessive State control of intellectual activity. She referred in particular to Mr. Aziz al Sayyid Jassem, who had disappeared in 1991 and had been well known in academic circles for his writings on women's rights. She requested information on his whereabouts and health and on those of the many other individuals already mentioned in the course of the discussion.

44. She associated herself with the questions on the Press Act, the list of prohibited publications and the prohibition of private television broadcasting. Finally, she endorsed the concerns expressed regarding the freedom of movement and of expression of foreign journalists.

45. Mr. ZAKHIA said that in discussing gender equality, the Iraqi delegation had stated that Decree No. 111 of 1990 on "crimes of honour", which were really crimes of dishonour, had been rescinded. He warmly welcomed that news and requested that the specific piece of legislation should be identified, for it was the first instance of such action in the Arab world. He inquired about the situation of men and women regarding inheritance in Iraq. Finally, concerning freedom of expression, he noted that criticizing or "insulting" the President of Iraq was punishable by penalties resembling those for blasphemy, and suggested that equating a human being and a divinity went against the spirit of human rights.

46. Mr. PRADO VALLEJO said that the delegation had not allayed the Committee's concerns on a number of points, but he wished to ask only a few questions. Was there political dissent in Iraq? Was political opposition permitted and, if so, what guarantees applied to that activity? Were there any opposition parties and, if so, what were their names, how did they operate and what guarantees did they enjoy?

47. Mr. MAHMOOD (Iraq), responding to the questions asked by Mr. Yalden concerning equality of the sexes, the employment of women and the status of women in Iraq, said that under Iraqi legislation in all fields, including the social, financial and economic, the equality of men and women posed no problem. In Iraq, as in most Muslim countries, legislation on personal status, or family law, was derived from the rules of the Shariah. Those rules, which had been in existence for 1,400 years, granted women full legal personality and an independent financial position vis-à-vis their male relatives. They gave women the right to choose their husbands and to file for divorce, the grounds for which could be simply no longer being in love. If Committee members so desired, he could furnish hundreds of court decisions in cases where women had filed for divorce. Once a divorce was granted at the initiative of a woman, she forfeited the unpaid portion of her alimony. If, however, the husband filed for divorce, the woman retained her rights in full.

48. According to a verse in the Koran, men should receive double the share allotted to women in inheritance from a deceased relative. In practice, however, there was no strict application of that rule. Under the Islamic legal system, which was applied not only by his country but by all Muslim countries, men bore social and financial responsibility for their female relatives. Hence the need to accord them a larger financial portion, so that they could ensure the well-being of female family members. The rule, far from discriminating between men and women, was a natural and equitable consequence of a social and economic conception of human life. Since the rule was based on a verse of the Holy Koran, it was unlikely that a Muslim country would ever terminate its application: Iraq, for its part, certainly would not.

49. Women had long had their place in the workforce and currently accounted for over 50 per cent of the total number of people employed. Senior positions were occupied by women, who served as directors, judges, doctors, engineers and architects and were also well represented among middle-level professionals. Women participated fully in the political life of the nation: in the most recent elections, 16 women had been elected to the National Council, the parliament of Iraq.

50. The General Federation of Iraqi Women was an NGO which engaged in many activities relating to women. The fourth and earlier reports provided detailed information on that organization. As to whether it had received complaints from women, many women with professional or administrative problems sought its help. It thus carried out its activities fully and normally. The Iraqi Human Rights Association and the Iraqi Bar Association also received complaints from women.

51. In response to Mr. Lallah's questions about freedom of expression and association, he recalled the information already given about the numerous trade unions in the country, the associations for Kurds and Syrians, and cultural and recreational associations. Those associations published many periodicals and journals.

52. On political opposition or dissidence, the idea that the Baath Party was the sole political party in Iraq was erroneous. In 1970, the National Front had been established, bringing together many political parties. Kurdish

parties were still in existence and operated freely within the Iraqi political structure. A large Kurdish community remained in Baghdad and other municipalities, and was served by clubs and associations.

53. If the people of Iraq were allowed to live in peace, without outside interference, political life would flourish. Any country, when subjected to external threats aimed at destroying its political system, would try to protect itself by imposing administrative and political restrictions. That was why the law on political parties had been promulgated, but Iraq looked forward to the day when it could return to a normal political life and catch up with the rest of civilization.

54. As he had stated before, his Government had decided to cooperate fully with the Special Rapporteur on the situation of human rights in Iraq and had received a visit from him. However, he had overstepped his mandate by calling publicly, in reports and interviews, for a change in the political regime, which was an incitement to disturbances. Special rapporteurs should not be allowed to hold press conferences on countries they were investigating and should verify every piece of information they received. The attempts to exert political influence on the Iraqi people and the appeals in the Special Rapporteur's report had no parallel in any other reports by special rapporteurs on any other countries. If the Special Rapporteur would take an objective approach, the Government would adopt a positive and cordial attitude to its relations with him.

55. Concerning Ms. Evatt's question about the effect of the provisional legislation on freedom of expression, he said the right to life and survival required that the Iraqi people should be protected against criminals. The emergency laws had been promulgated for the purpose of curbing criminal activities such as murder and robbery. Severe punishments had had to be imposed for barbaric crimes, which were growing in number. Whole families, including infants, had been massacred. Though the laws adopted might appear severe, they stemmed from the legitimate right to self-defence.

56. Freedom of expression and the press was guaranteed. A number of newspapers were published, including one on human rights. Unfortunately, the publication of some scientific journals had had to be suspended because printing paper was in short supply and the printing machinery was antiquated. As a result, a number of graduate students had been unable to obtain their degrees. The newspaper published by the Chamber of Commerce was not subject to approval by the Government, because it was considered a technical publication.

57. As to the requirement of prior authorization for publication mentioned by Mr. Ando in connection with the Press Act, he said it was a purely organizational measure. Though there were regulations applying to publications, there was no constant or detailed censorship. Publications must conform to general rules of decency and not contain insults. The Press Act required a newspaper that published an insult to publish an apology. Legal proceedings could be brought by individuals if they considered that an insult had been published against them. The Press Act was thus aimed at the protection of the individual.

58. Turning to the question on satellite broadcasting, he said Iraq was being subjected to violent aggression from all sides. It was targeted in campaigns by the media of many countries, which even tried to foment dissent among citizens. The Government had no objection to the use of satellites, but such use must be deferred until social stability and tranquillity prevailed. Once the targeting of Iraq ceased, it would be possible to link up with the Internet and satellite communications could be launched to facilitate contacts with the outside world.

59. In conclusion, he said it had been an honour to pursue a dialogue with the Committee which was intended to serve the noble purposes of human rights. In the name of justice and humanity, he called on the Committee, which embodied the conscience of the international community, to be sympathetic to the cause of a people who had been warding off death for seven years now, since the imposition on Iraq of sanctions whose repercussions were being increasingly felt.

60. The CHAIRPERSON thanked the Iraqi delegation for a dialogue which had been useful, even if it had brought out differences of opinion. It was noteworthy that the report had been submitted on time, in a further demonstration of Iraq's desire to cooperate with the Committee.

61. The fourth periodic report nevertheless revealed a deterioration in the exercise of the human rights guaranteed by the Covenant. Certainly, the sanctions caused grave suffering among the people, but that burden must be lightened by the State, rather than exacerbated by intensified repression on the grounds that the sanctions created social disturbances resulting in criminal behaviour.

62. The delegation had been frank in its admission that the new procedures introduced because of the emergency situation did not correspond to the provisions on the death penalty in the Penal Code. Similarly, it had acknowledged that the special courts did not meet the requirements of article 14 of the Covenant and that the Revolution Command Council, the sole legislative body, failed to conform to the terms of article 25. The delegation had attributed those phenomena to the situation imposed on Iraq by the sanctions. But no economic problem, no matter how dramatic, could justify the use of forms of corporal punishment belonging to times past. The practice was all the more surprising in a country that had committed itself firmly to modernization. Nothing justified a failure to guarantee the right to life or the growing number of disappeared persons. Nothing justified torture, abuse of authority by the security forces or the retroactive application of criminal legislation.

63. The message that the Committee, as a body responsible for monitoring the implementation of civil and political rights, must address to Iraq today was that it must restore, as a matter of urgency, the fundamental rights of the person, with constitutional and legislative provisions that facilitated their effective application, in a context of freedom of expression and political

liberty in line with article 25 of the Covenant. It was not only external factors that were to blame for the sufferings of the Iraqi people: the State also bore a responsibility in that regard and must take the appropriate remedial measures even before the normalization of relations was achieved.

64. She informed the delegation that the fifth periodic report of Iraq would fall due on 4 April 2000 and expressed the hope that the situation of the Iraqi people would have improved by that time.

65. Mr. MAHMOOD (Iraq) again expressed his Government's appreciation to the Committee and asked for understanding for the sufferings of the Iraqi people.

The meeting rose at 6.10 p.m.